

1 **Rule 8.5. Disciplinary Authority; Choice of Law.**

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3 (a) Disciplinary Authority. A licensed paralegal practitioner admitted to practice in this
4 jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the
5 licensed paralegal practitioner's conduct occurs.

6 (b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules
7 of professional conduct to be applied shall be as follows:

8 (b)(1) for conduct in connection with a matter pending before a tribunal, the rules of the
9 jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

10 (b)(2) for any other conduct, the rules of the jurisdiction in which the licensed paralegal
11 practitioner's conduct occurred, or, if the predominant effect of the conduct is in a different
12 jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A licensed paralegal
13 practitioner shall not be subject to discipline if the licensed paralegal practitioner's conduct
14 conforms to the rules of a jurisdiction in which the licensed paralegal practitioner reasonably
15 believes the predominant effect of the licensed paralegal practitioner's conduct will occur. If
16 both the jurisdiction where the licensed paralegal practitioner's conduct occurred and the
17 jurisdiction where its predominant effect was felt lack rules of professional conduct for licensed
18 paralegal practitioners, these rules shall be applied to the conduct at issue.

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21 Comment

22 Disciplinary Authority

23 [1] The conduct of a licensed paralegal practitioner admitted to practice in this jurisdiction is
24 subject to the disciplinary authority of this jurisdiction. Extension of the disciplinary authority of
25 this jurisdiction to other licensed paralegal practitioners who provide or offer to provide legal
26 services in this jurisdiction is for the protection of the citizens of this jurisdiction. Reciprocal
27 enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the
28 purposes of this Rule. See Rules 6 and 22, Licensed Paralegal Practitioner Discipline and
29 Disability.

30 Choice of Law

31 [2] A licensed paralegal practitioner may be potentially subject to more than one set of rules of
32 professional conduct that impose different obligations. The licensed paralegal practitioner may
33 be licensed to practice in more than one jurisdiction with differing rules or may be admitted to
34 practice before a particular court with rules that differ from those of the jurisdiction or
35 jurisdictions in which the licensed paralegal practitioner is licensed to practice. Additionally, the
36 licensed paralegal practitioner's conduct may involve significant contacts with more than one
37 jurisdiction.

38 [3] Paragraph (b) seeks to resolve such potential conflicts. Its premise is that minimizing
39 conflicts between rules, as well as uncertainty about which rules are applicable, is in the best
40 interest of both clients and the profession (as well as the bodies having authority to regulate the
41 profession). Accordingly, it takes the approach of (i) providing that any particular conduct of a
42 licensed paralegal practitioner shall be subject to only one set of rules of professional conduct,
43 (ii) making the determination of which set of rules applies to particular conduct as
44 straightforward as possible, consistent with recognition of appropriate regulatory interests of
45 relevant jurisdictions, and (iii) providing protection from discipline for licensed paralegal
46 practitioners who act reasonably in the face of uncertainty.

47 [4] Paragraph (b)(1) provides that, as to a licensed paralegal practitioner's conduct relating to a
48 proceeding pending before a tribunal, the licensed paralegal practitioner shall be subject only to
49 the rules of the jurisdiction in which the tribunal sits unless the rules of the tribunal, including its
50 choice of law rule, provide otherwise. As to all other conduct, including conduct in anticipation
51 of a proceeding not yet pending before a tribunal, paragraph (b)(2) provides that a licensed
52 paralegal practitioner shall be subject to the rules of the jurisdiction in which the licensed
53 paralegal practitioner's conduct occurred, or, if the predominant effect of the conduct is in
54 another jurisdiction, the rules of that jurisdiction shall be applied to the conduct. In the case of
55 conduct in anticipation of a proceeding that is likely to be before a tribunal, the predominant
56 effect of such conduct could be where the conduct occurred, where the tribunal sits or in another
57 jurisdiction. If the jurisdiction where the conduct occurred and the jurisdiction where the

58 predominant effects of the conduct were felt both lack rules of professional practice for licensed
59 paralegal practitioners then these rules shall apply to the conduct at issue.

60 [5] When a licensed paralegal practitioner's conduct involves significant contacts with more than
61 one jurisdiction, it may not be clear whether the predominant effect of the licensed paralegal
62 practitioner's conduct will occur in a jurisdiction other than the one in which the conduct
63 occurred. So long as the licensed paralegal practitioner's conduct conforms to the rules of a
64 jurisdiction in which the licensed paralegal practitioner reasonably believes the predominant
65 effect will occur, the licensed paralegal practitioner shall not be subject to discipline under this
66 Rule. With respect to conflicts of interest, in determining a licensed paralegal practitioner's
67 reasonable belief under paragraph (b)(2), a written agreement between the licensed paralegal
68 practitioner and client that reasonably specifies a particular jurisdiction as within the scope of
69 that paragraph may be considered if the agreement was obtained with the client's informed
70 consent confirmed in the agreement.

71 [6] If two admitting jurisdictions were to proceed against a licensed paralegal practitioner for the
72 same conduct, they should, applying this Rule, identify the same governing ethics rules. They
73 should take all appropriate steps to see that they do apply the same rule to the same conduct and
74 in all events should avoid proceeding against a licensed paralegal practitioner on the basis of two
75 inconsistent rules.

76 [7] Reserved.